

Town of Frederick Board of Trustees



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AM 2009-060

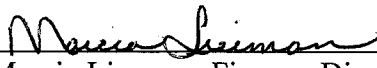
REQUEST RESCISSION OF WYNDHAM HILL FILING 1 REPLAT

Agenda Date: Town Board Hearing, July 14, 2009

Attachments:

- a. Resolution
- b. Ordinance
- c. BOT Staff report from April 12, 2007
- d. Ordinance 895 and Resolution 07R035 approving Wyndham Hill Filing 1 Replat A
- e. Ordinance 799 and Resolution 05R41 approving Wyndham Hill Filing 1
- f. Vicinity map
- g. Applicant's request to rescind Wyndham Hill Filing 1 Replat A
- h. Wyndham Hill Filing 1 Replat A
- i. Wyndham Hill Filing 1

Fiscal Note: None noted



Marcia Lierman, Finance Director

Submitted by: 

Todd Tucker, Planner

Approved for Presentation: 

Derek Todd, Town Administrator

AV Use Anticipated Projector X Laptop

Certification of Board Approval:

Town Clerk

Date

Summary Statement: The applicant has requested to rescind the approval of Wyndham Hill Filing 1 Replat A (Ordinance 895 / Resolution 07R035), reverting to and reaffirming the originally approved configuration for Lots 1-14 Block 14, Lots 1-9 Block 15, and Lots 1-18 Block 24 as shown in Wyndham

Hill Filing 1 (Ordinance 799 / Resolution 05R041). Filing 1 included 41 lots in these three blocks. The Replat reconfigured the lot lines resulting in 38 lots.

Detail of Issue/Request:

Applicant / Owner: Jon Lee
C/o Frederick Development Company
500 Arapahoe Ave. Suite 220
Boulder, CO 80302

Adjacent Zoning / Land Uses: The replat involves two areas near the center of Filing 1 (N1/2 of the SE ¼ of section 34 T2N R68W), and encompasses Lots 1-14 Blocks 14, Lots 1-9 Block 15, and Lots 1-18 Block 24 Filing 1. The attached vicinity map identifies the lots as configured in Replat A and associated Block numbers. The zoning surrounding these Blocks is R-1 with a PUD overlay, however a portion of Block 15 abuts unincorporated Weld County.

For Blocks 14 and 15 the adjacent zoning and land uses are:

North R-1 w / PUD Overlay, residential, Town of Frederick
East Agricultural, Unincorporated Weld County, and R-1, Town of Frederick
South C-H52 Mixed Use Highway 52, Town of Frederick
West R-1 w / PUD Overlay, residential, Town of Frederick

For Block 24 the adjacent zoning and land uses are:

North R-1 w / PUD Overlay, residential, Town of Frederick
East R-1 w / PUD Overlay, residential, Town of Frederick
South R-1 w / PUD Overlay, residential, Town of Frederick
West R-1 w / PUD Overlay, residential, Town of Frederick

Referral: The application was referred to the applicable referral agencies, departments, and interests including the Town Attorney, Town Engineer, and Fire District.

Town Attorney, Since no development has occurred under Replat A, and no further subdivision of the subject real property has occurred, reversion to the original plat for Filing 1 may be processed without engaging the full replat process. While the formal rescission of an approved plat is not specifically addressed in the Town of Frederick Land Use Code, a public hearing before the BOT is required to compel official action by the Board to rescind a local government land use decision.

Town Engineer, The previously approved Filing 1 Construction Plans are still valid as the Replat that is being rescinded did not affect grading, drainage or utilities. The Developer shall submit a Master Utility Plan prior to construction showing the utilities, grading and streets that are to be constructed. The Developer shall submit a Filing 1 Phasing Map depicting the existing phasing and the new phasing for the lots to be constructed.

United Power, Frederick Firestone Fire Protection District, Indicate no conflict.

Public Notice: The Public meeting was noticed in accordance with the provision of the Land Use Code.

Criteria: There is no formal process to rescind an approved plat and revert to a previous filing within the Land Use Code. However, a public hearing before the BOT is required to compel official action by the Board to rescind a local government land use decision. Furthermore, the review criteria set forth in Sec. 4.9 1.c. of the Land Use Code would apply to reinstate the approval of that final plat.

4.9.1.c Final plat review criteria. The Town shall use the following criteria to evaluate the Applicant's request:

- (1) The final plat conforms with the approved preliminary plat and incorporates recommended changes, modifications, and conditions attached to the approval of the preliminary plat unless otherwise approved by the Board of Trustees.**
- (2) The development will substantially comply with the community design principles and development standards as set forth in Article 2 of this Code.**
- (3) All applicable technical standards have been met.**
- (4) An updated title commitment dated current to within fourteen (14) days of the Board of Trustees meeting.**

The applicant has requested that approval of Wyndham Hill Filing 1 Replat A be rescinded and return to the configuration for Lots 1-14 Block 14, Lots 1-9 Block 15, and, Lots 1-18 Block 24, as shown in Wyndham Hill Filing 1.

Wyndham Hill Filing 1 (Filing 1) involves 381 lots and established the character of the neighborhood for the subject and surrounding properties. Filing 1 also conforms to the established development standard in effect at the time of approval (August 11, 2005, see Ordinance 799 and Resolution 05R41). Wyndham Hill Filing 1 Replat A (Replat A) involves 38 lots in three discrete locations within Wyndham Hill Filing 1 (see Ordinance 895 and Resolution 07R035). Replat A adjusts the distribution of lot lines for Lots 1-14 Block 14, Lots 1-9 Block 15, and Lots 1-18 Block 24 within Filing 1 replacing 41 of 381 lots with 38 re-configured lots. The adjustments were minor in nature and maintained consistency with the previously approved development patterns and surrounding neighborhood character. Both plats substantially conform to the community design standards in effect at the time of approval, are consistent with the surrounding development patterns and approved plans. While some development standards have changed with the adoption of the revised Article 2 of the Land Use Code in February 2009, a rescission of Replat A reverting and reaffirming Filing 1 would be consistent with the surrounding development patterns, previous approvals and overall development pattern of the neighboring properties. In addition, the unique features of the site such as the surrounding road layouts, easements, etc. will remain unchanged and as approved in Filing 1 and Replat A. Therefore, the proposal is generally consistent with the provisions of the Land Use Code and development requirements as established at time of approval. Furthermore, to require the subject lots to accommodate the current development standards would result in a disharmonious development with the surrounding 340 lots platted in Filing 1, and may pose a hardship for the development. Lastly, the Board found that all applicable technical standards have been met in the review of both Filing 1 and Replat A, in accordance with the applicable development standards in effect at that time.

There was an easement dedicated in block 24 between lots 5 and 6 as well as 13 and 14 after approval of Filing 1 (reception number 3372896). No other easements or rights-of-way were dedicated in the approval of Filing 1 Replat A that would require vacation or modification from what currently exists.

In summary, per the applicant's request, Wyndham Hill Filing 1 Replat A may be rescinded and the development may revert to the previously approved configuration for the subject 41 lots (Lots 1-14 Block 14, Lots 1-9 Block 15, and Lots 1-18 Block 24), as shown in Wyndham Hill Filing 1. There is no

detrimental impact to the Town, services, or adjacent property owners as the original and surrounding configuration met the requirements of the Land Use Code at the time of approval in 2005 and no utility service has been installed to the subject lots.

The Planning Commission considered the request on July 7, 2009. Information regarding the outcome of that meeting will be provided at the Trustee meeting on July 14, 2009.

Legal/Political Considerations:

None noted.

Alternatives/Options:

ACTIONS: The Board of Trustees may consider the following options regarding the application:

- ☐ Approval of the request finding it is substantially in conformance with the provisions of the Land Use Code and Comprehensive Plan;
- ☐ Denial of the request with a finding that it does not substantially achieve conformance with the provisions of the Land Use Code and Comprehensive Plan ;
- ☐ Approval of the request finding that it would be substantially in conformance with the provisions of the Land Use Code and Comprehensive Plan if certain conditions are met;

Financial Considerations:

Not Applicable.

Staff Recommendation:

Staff recommends that the Planning Commission recommend approval of the proposed request to rescind Wyndham Hill Filing 1 Replat A (Ordinance 895 and Resolution 07R035), reverting to and reaffirming Lots 1-14 Block 14, Lots 1-9 Block 15, and Lots 1-18 Block 24 Wyndham Hill Filing 1 as proposed.